

JAMES E. JUSTICE II, and)	
PATRICIA G. JUSTICE,)	
)	
Plaintiffs,)	
)	
v.)	Case No. CIV-06-397-RAW
)	
JOHN LUTTON, et al.,)	
)	
Defendants.)	

Before the Court is the motion to dismiss of defendant John Luton. Plaintiff has not responded to the motion and the fifteen days permitted by LCvR 7.1(f) has elapsed. The Court declines to provide an additional eleven days pursuant to LcvR 7.1(h). Plaintiff James E. Justice¹ sues defendant Luton, at the time of the litigated events the District Attorney for the Fifteenth District of the State of Oklahoma, for alleged civil rights violations arising out of a criminal prosecution.

¹Named plaintiff Patricia Justice has previously been dismissed without prejudice.

to Eleventh Amendment immunity. *See Ray v. McGill*, 2006 WL 2092561 (W.D.Okla.2006).

Nevertheless, since service has not been obtained, dismissal will be without prejudice.

It is the Order of the Court that the motion of the defendant to dismiss (#12) of defendant Luton is hereby GRANTED. The Court sua sponte dismisses defendant Muskogee County District Attorney's Office without prejudice and therefore this Order constitutes a final order.

ORDERED THIS 18th DAY OF DECEMBER, 2006.

Dated this 18 December 2006.

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A handwritten signature in cursive script, reading "Ronald A. White", written over a horizontal line.

Ronald A. White
United States District Judge
Eastern District of Oklahoma